

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

June 8, 2012

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

We write to follow up on our prior requests for an estimate of the total cost of the Environmental Protection Agency's (EPA) Utility MACT rule, also known as the Mercury and Air Toxics Standards rule, announced on December 21, 2011. We wrote to you previously on January 24, 2012, and also to Chief of Staff Jacob Lew on February 22, 2012 and April 20, 2012, requesting an estimate of the total cost of the rule but EPA has not yet provided such a total cost estimate. While we have received the May 8, 2012 response from Assistant Administrator Gina McCarthy providing an estimate of \$35 billion for the capital component of the total cost, we continue to be extremely concerned that EPA has not yet provided to Congress or the American public an estimate of the *total* estimated compliance costs that includes the present value of both capital and non-capital costs.

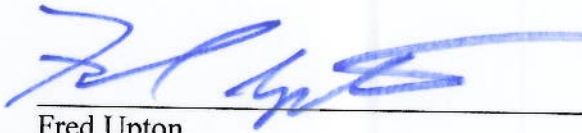
Our concerns about the total cost of the rule are based on the significant electricity price increases that may be triggered in certain regions of the country by this and other recent or pending EPA power sector rules. As you may be aware, the 13-state PJM Interconnection Region recently announced that capacity prices for 2015-2016, the first year that electricity generators will be required to comply with the Utility MACT rule, will be 8 times higher than the price that was set for 2012-2013. As explained by PJM, the "auction was impacted by an unprecedented amount of planned generation retirements (more than 14,000 MW) driven largely by environmental regulations, which drove prices higher than last year's auction."

To assist the Committee and the public in understanding the total costs associated with the Utility MACT rule, we have attached additional requests for information and request that you respond not later than June 27, 2012. As set forth in the attached information requests, based on the estimates and assumptions published by EPA, it appears the total cost for the Utility MACT rule may exceed \$108 billion. We specifically seek EPA's response concerning whether this

reflects a reasonable estimate of the total present value cost of this regulation rule, based on EPA analysis and assumptions. We have continuing concerns about such an unprecedented, expensive rule with such far-reaching impacts across many States.

We support the President's commitment to transparency, and urge the Administration to ensure that EPA provides the total cost of this regulation as required by President Obama's Executive Order 13563. Thank you in advance for your assistance. Should you have any questions, please contact Mary Neumayr of the Majority Committee staff at (202) 225-2927.

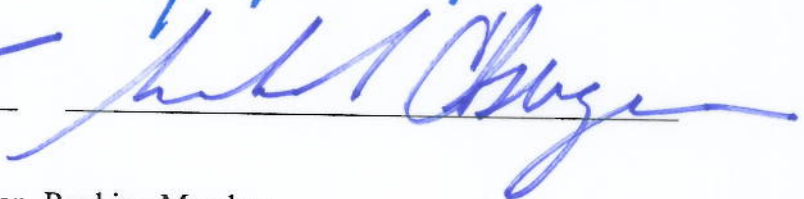
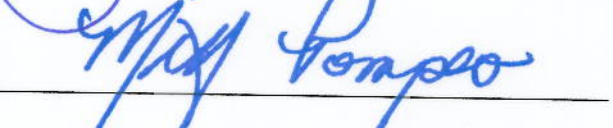
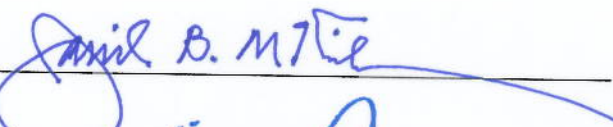
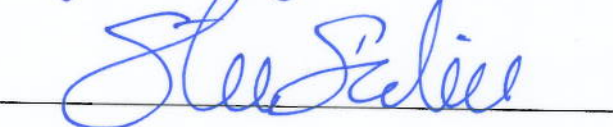
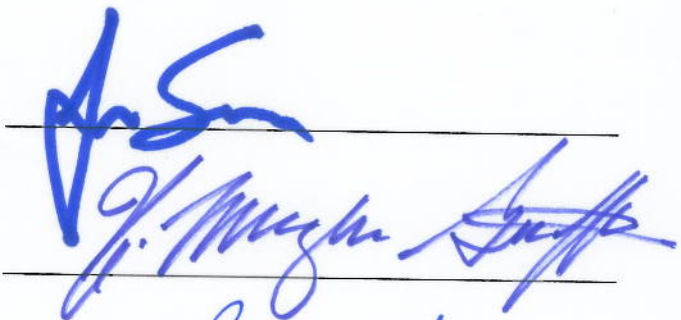
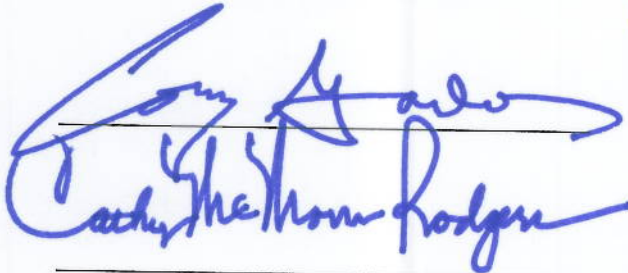
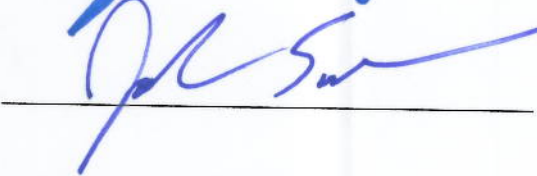
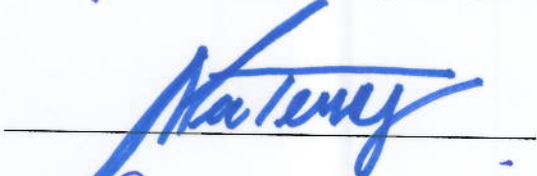
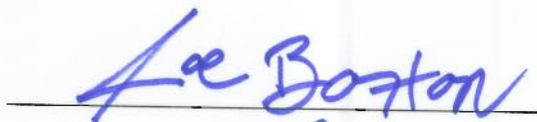
Sincerely,



Fred Upton
Chairman



Ed Whitfield
Chairman
Subcommittee on Energy and Power



cc: The Honorable Henry A. Waxman, Ranking Member

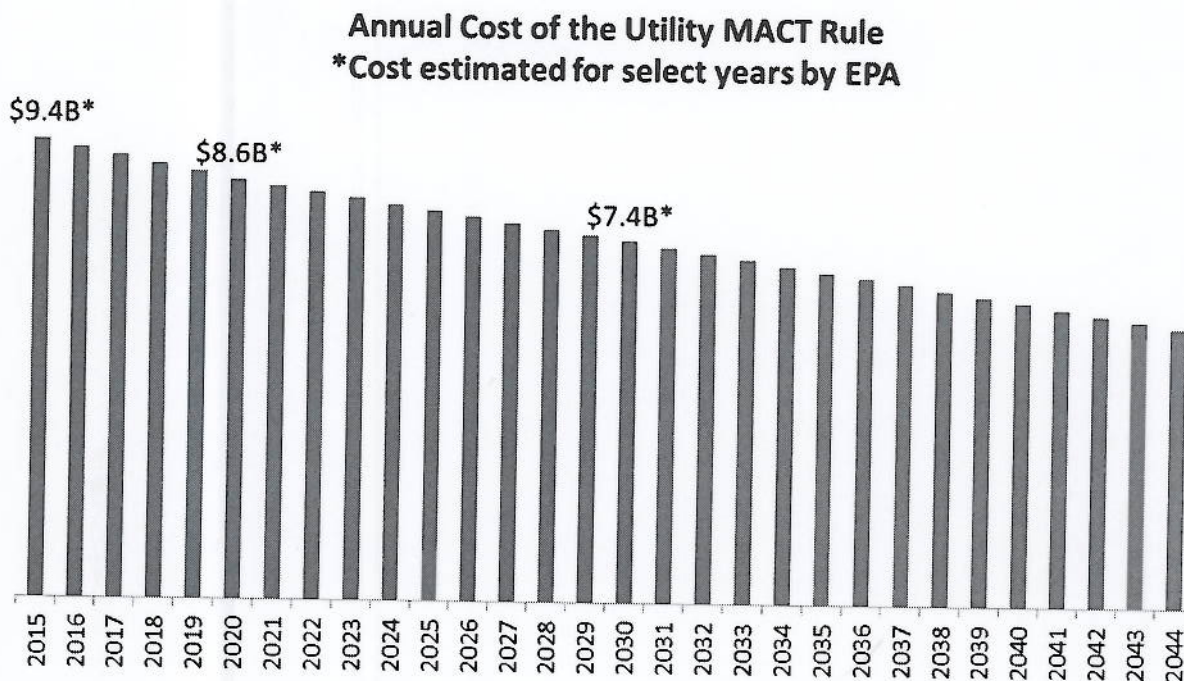
The Honorable Bobby L. Rush, Ranking Member
Subcommittee on Energy and Power

INFORMATION AND DOCUMENT REQUESTS

Cost Estimate for the Utility MACT Rule

1. In Assistant Administrator Gina McCarthy's letter dated May 8, 2012, she states that EPA's Office of Air and Radiation has not calculated the present value of all costs or all benefits across multiple individual years. This does not appear to be consistent with President Obama's commitment to transparency and openness in government, and that President's Executive Order 13563 which requires that agencies make available to the public the assessment of the costs anticipated from the regulatory action.
 - a. Does EPA plan to release to the public an estimate of the total cost of the final regulation, including the present value of all costs assessed in the regulatory impact analysis?
 - b. If yes, when?
2. In her May 8, 2012, letter, Assistant Administrator McCarthy states that "EPA did not separately calculate the total costs of installing and maintaining pollution control equipment to comply with MATS; instead, we used a sophisticated model that takes many power sector complexities into account." She also states that "This model provides cost projections on an annualized schedule reflecting when the costs will actually be incurred."
 - a. Does this reference to a model refer to the Integrated Planning Model v4.10 (IPM)? If not, what model is referred to in the May 8, 2012 letter?
 - b. Why does EPA use a model that does not provide an estimate of the total cost of the rule?
 - c. Other analysts have used EPA's IPM model output to calculate a present value of the total cost of the rule. Has EPA considered performing a similar calculation?
3. Table 3.5 of the Regulatory Impact Analysis accompanying the final Utility MACT rule reports compliance costs of \$9.4 billion in 2015, \$8.6 billion in 2020, and \$7.4 billion in 2030. EPA notes that this cost estimate excludes compliance costs for oil-fired electricity generating units, monitoring, reporting and record-keeping.

Assuming that the costs decline at a consistent rate as illustrated in the diagram below, we have calculated an estimate of the compliance costs that are associated with the intervening years, based upon the estimates provided by EPA. Those annual costs range from EPA's estimate of \$9.4 billion to \$5.72 billion in the year 2044:



To develop an estimate of the total present value cost of the rule, we have employed EPA's estimates of total annual costs and total capital cost. In Assistant Administrator McCarthy's May 8, 2012 letter, she provided an estimate of the capital costs of \$35 billion. Supporting documents published with the rule identify that capital costs were amortized at 6.15% for a period of 30 years. Amortizing \$35 billion over 30 years at 6.15% yields an estimate of the annual amortized capital cost of approximately \$2.5 billion. Discounting the remaining non-amortized costs at 7% annually, the present value sum of the annual cost estimates, based upon EPA's estimates and assumption, would be \$108 billion, excluding costs associated with oil-fired units, monitoring, reporting and record-keeping.

- a. Does EPA agree that this is a reasonable estimate of the total present value cost of the Utility MACT rule, based on EPA analysis and assumptions?
 - b. If EPA does not agree that this is a reasonable estimate of the total present value cost of the Utility MACT rule, please provide detailed assumptions that should be employed to refine this estimate and provide the amount EPA believes is a reasonable estimate.
4. Is it correct that the Utility MACT cost baseline estimate, EPA assumed that the Cross-State Air Pollution Rule (CSAPR) would already be in effect? If yes, please provide an assessment of the impact of the recent court decision to stay implementation of CSAPR on the cost estimate.